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COMMITTEE AGAINST TORTURE

Ninth session

SUMMARY RECORD OF THE SECOND PART (PUBLIC)* OF THE 124th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 12 November 1992, at 11.40 a.m.

Chairman: Mr. VOYAME

CONTENTS

Consideration of report submitted by States under article 19 of the Convention (continued)

Supplementary report of Argentina (continued)

Organizational and other matters (continued)

* The summary record of the first part (closed) of the meeting appears as document CAT/C/SR.124.

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The meeting was called to order at 11.40 a.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION (agenda item 4) (continued)

1. At the invitation of the Chairman, Mr. Lanus and Mr. Paz (Argentina) took places at the Committee table.

2. Mr. LANUS (Argentina), replying to questions asked by the members of the Committee, said that the families and relatives of persons who had disappeared before 10 December 1983, when the new democratic Government had taken power, received tax-exempt pensions once their claims had been made to and approved by a competent court. Those entitled were children under the age of 21, the spouse and other family members who had lived in the same household as the disappeared person. To date, 5,000 persons had received such pensions. Pensioners also benefited from social services. In addition, Act No. 23,852 of 1990, supplemented by Act No. 17,531, provided that persons whose fathers or brothers had disappeared before 10 December 1983 could request exemption from compulsory military service. To date, 400 such requests had been made.

3. Under Decree No. 70/91, a compensation scheme had been set up for persons who had been held at the disposal of the National Executive (PEN) prior to the restoration of democracy. The Decree stated that any persons who had been placed at the disposal of the National Executive before 10 December 1983, by its decision, and any civilians who had been detained on the orders of the military courts, whether or not they had initiated proceedings for damages, could claim the benefits of the Decree, provided that they had not received any compensation as a result of a court judgement in connection with the acts referred to therein. If such persons were civilians, they must have been deprived of their freedom on the orders of the military courts, whether or not they had been convicted in the courts. Compensation amounted to approximately $10,000 per year of detention. The Ministry of the Interior had informed him that all channels for compensation claims had been opened to persons who had been victims of unlawful repression. He apologized for the fact that the report lacked information on disappeared persons.

4. Mr. SORENSEN thanked the Argentine delegation for the information it had provided with regard to doctors and noted that unfortunately doctors participated in more than 60 per cent of torture cases in all parts of the world. Danish film requested by the Argentine delegation would be sent to the Danish Embassy in Switzerland and then forwarded to the Argentine Mission.

5. Mr. LANUS (Argentina) said that he would send the film to Buenos Aires, where the Ministry of the Interior could investigate the allegations and try to establish the identities of the doctors involved. He promised to keep the Committee informed.

6. Mr. LORENZO (Country Rapporteur) informed the Argentine delegation that the Committee's conclusions at the end of its consideration of Argentina's supplementary report had been completely reformulated and had been adopted by consensus.

7. Mr. BEN AMMAR (Alternate Country Rapporteur) said that the conclusions read:

"The Committee thanks the Government of the Republic of Argentina for having submitted its first periodic report within the time period stipulated in article 19 of the Convention and for the information and clarifications kindly provided by the delegation to the Committee. The Committee expresses its appreciation for the efforts made to improve the situation with respect to human rights, in particular in the area of laws which relate to the purposes of the Convention against Torture.

Despite the aforementioned efforts, however, the Committee expresses its deep concern at the continuing vestiges of the former regime and the disturbing use of violent methods and of torture in many cases, as well as the clemency and impunity enjoyed by the perpetrators of such acts contrary to the requirements of the Convention.

The Committee expresses the hope that the Government of the Republic of Argentina will redouble its efforts to take all legislative, judicial, administrative and other measures which will be sufficiently effective to halt and to prevent the practice of torture and of all cruel, inhuman or degrading treatment or punishment, and, where necessary, to punish the perpetrators of such acts.

The Committee further expresses the hope that the Government will submit to it as soon as possible the additional information requested by its members and thanks it in advance for its cooperation."

8. Mr. LANUS (Argentina) thanked the members of the Committee for the interest with which they had received the report, its oral introduction and the replies to questions and for the understanding with which they had considered Argentina's efforts to eradicate once and for all antisocial practices that were contrary to human dignity and human rights.

9. Mr. Lanus and Mr. Paz (Argentina) withdrew.

ORGANIZATIONAL AND OTHER MATTERS (agenda item 2) (continued)

10. The CHAIRMAN said that the Mexican delegation had asked to have its replies to the Committee's questions postponed until Thursday, 19 November.

11. It was so decided.

12. The CHAIRMAN said that Mr. Mikhailov had volunteered to act as alternate country rapporteur for the report of Germany.

13. He informed the Committee that copies of the film "Raison d'état" were available. The film was in french with English subtitles. Spanish subtitles would be provided at a later date.

14. Mr. SORENSEN said that the film entitled "In spite of" which he had shown the previous year, would be available to all members of the Committee free of charge in English, French, Spanish, German, Italian, Danish and Swedish.

Report by the Chairman on the outcome of the Meeting of Chairpersons of Human Rights Treaty Bodies

15. The CHAIRMAN said that the meeting of the Chairpersons of human rights treaty bodies met every two years. The fourth session had been held from 12 to 16 October 1992. Six Chairpersons had been present, plus one member of the Group of Three established under the International Covenant on the Suppression and Punishment of the Crime of Apartheid. They had discussed the problem of reports which were either not submitted at all or were submitted late. Since the Committee against Torture was relatively new, it did not yet have that problem, but it might at a later date. He therefore suggested that the Committee should maintain contact with States parties which had not submitted their reports, warning them that, if they did not do so promptly, it would still discuss the situaiton with regard to torture in their territories on the basis of information from other sources. Perhaps the Committee should actually adopt that apparoach because at least two States which had been due to submit their reports in 1988 had still not done so.

16. It had also been pointed out in the meeting of Chairpersons that it would be helpful to explain to States parties how to prepare and submit reports. A UNITAR guidebook did exist, but it was available only in English and Chinese, although it was to be made available in other languages as well. The proposal made four years previously that States should be invited to submit only one report which would cover all aspects of human rights and then be divided up by the Secretariat, with the relevant sections being transmitted to the Committee concerned, might also be worth discussing again.

17. The Chairpersons had noted that many Committees were behind in their consideration of reports. That was irrelevant for the Committee against Torture, which had not encountered that problem.

18. Another matter raised by the Chairpersons was that many countries had only signed one or two international instruments. The system of international conventions formed a whole and States must therefore be encouraged to sign them all. That was of particular importance for the Convention against Torture, which had been signed by only 70 States to date, whereas the more recent Convention on the Rights of the Child had already been signed by approximately 120 States.

19. Another question had related to the financial situation. Most Committees were financed by the United Nations budget, but the Committee on the Elimination of Racial Discrimination (CERD) and the Committee against Torture had separate budgets, funded in part by States parties in the case of CERD and entirely in the case of the Committee against Torture. There was always a risk of a shortfall if States parties did not make their contributions. In that context, the proposal by Australia that the Committee should be funded from the regular United Nations budget had been unanimously supported by all the States parties to the Convention against Torture.

20. In a discussion of Secretariat services, the Chairpersons had noted that, while there had been an increase in the number of international conventions and the relevant bodies, the Secretariat had not expanded to the same degree to deal with the resulting heavier workload. That, in turn, caused many

problems. For example, the members of the Committee had no systematic access to information relating to torture and they had to reply on allegations that they had received directly or the occasional newspaper article that they might have noticed.

21. Six years previously, the Chairpersons had recommended the creation of a documentation room for documents on States whose reports were under consideration and other relevant information, as well as the computerization of the relevant human rights bodies. The Secretary-General had endorsed the proposal, but it had not been possible to implement it for lack of funding, and he had therefore called upon all Member States of the United Nations to make voluntary contributions to help finance the investments needed. Of the nearly 180 States to which the request for contributions had been made, however, only three had responded favourably, and the funds offered were inadequate; the Secretary-General was still seeking other sponsors.

22. A number of Committees had made general observations and recommendations on a range of subjects, such as working methods and interpretations of conventions, which they had addressed to all States. Document HRI/GEN/1 contained a summary of those observations and recommendations and was useful reading for the members of the Committee against Torture, who should likewise undertake from time to time to adopt general observations, recommendations and even interpretations of the Convention against Torture and the rules of procedure.

23. Another suggestion by the Chairpersons was that the Secretariat should systematically inform non-governmental organizations (NGOs) when the report of a given State was about to be considered so that information could be received on that State. A regular gleaning of several reliable newspapers would provide up-to-date sources of information on torture.

24. Concerning interaction between Committees, the Committee against Torture had followed the recommendations of the Chairpersons and had appointed a rapporteur for each Committee in the field of human rights. In certain Committees, that method had not always worked well, but the Committee against Torture would continue with it for the time being. It would be useful to receive short summaries of the reports of the various Committees. The possibility of joint meetings had also been considered when areas of concern overlapped: for example, the Human Rights Committee also dealt with torture to a certain extent. In his view, however, such joint meetings were too unwieldy, but a meeting of the Chairpersons or delegates from Committees might prove useful.

25. The Chairpersons had found that efforts to inform the public about the work of the Committees had been inadequate and that it was therefore necessary to step up the information campaign, giving priority to the drafting, translation and distribution of publications on human rights. They also envisaged the establishment of a group of experts to review information policy and to elaborate a new strategy that would take account of the needs of the public in all countries. They had expressed their satisfaction that each State party had undertaken to distribute in its territory its report and the summary records of the meetings at which the report had been considered by a particular committee.

26. The Chairpersons had reported on the informal meeting of the Committee on the Rights of the Child, held in Quito and financed by UNICEF and they were of the view that that successful initiative could be attempted elsewhere. He agreed with them, but he did not see who would finance such an effort by the Committee against Torture.

27. With regard to the World Conference on Human Rights, the Chairpersons had said that the representatives of the various Committees should be able to collaborate more closely and have the full right to take the floor at the meetings of the Preparatory Committee. They should also be represented at regional meetings, but, once again, for the Committee against Torture, that was primarily a financial question. The Chairpersons had also supported the establishment of an ad hoc working group to consider the application of instruments in force, to evaluate their working methods and mechanisms and to make recommendations as necessary to the General Assembly with a view to improving effectiveness, and they had also discussed creating a special advisory body for the World Conference to serve as a link between member States and NGOs.

28. Another issue raised by the Chairpersons, although less important for the Committee against Torture, was that many conventions, such as the Convention on the Rights of the Child, allowed reservations to be made that were so general that they seriously undermined the obligations that States had assumed in signing such instruments. The Committee against Torture, for its part, was more interested in convincing a larger number of States parties to the Convention against Torture to accept the procedure under its articles 20, 21 and 22.

29. The Chairpersons had expressed their concern about massive human rights violations in a number of countries and had endorsed the proposal that the Committees should be able to make recommendations to the Security Council when such violations had occurred. He agreed that that was an interesting proposal because, when violations took place in a given country, the Committee against Torture would not simply have to wait until the next report appeared four years later or for the procedure under article 20 to take its course, but could immediately report the violations to the Security Council for action. In that context, the Human Rights Committee had already taken innovative action: concerned by the situation in the former Yugoslavia, it had decided not to wait until the next report was due on the situation there, but had convinced the various groups in the former Yugoslavia to report immediately on the human rights situation in their regions. The Committee against Torture might also consider the possibility of taking such urgent action.

30. The Chairpersons had given thought to the drafting of new optional protocols to existing conventions, for example, to the Convention against Torture, but had agreed that the number of treaty monitoring bodies should not be increased because that would hamper their effectiveness and increase the tendency of their work to overlap.

31. Lastly, the international conventions had been translated into many languages and it would be helpful to have a collection of those translations for use in seminars and conferences.

32. Mr. SORENSEN, referring to the problem of how to deal with countries that had not submitted reports, said that the Committee should serve notice that it would consider the situation of human rights in such countries with or without reports. He was under the impression that other Committees were already adopting such an approach and, in his view, the Committee against Torture should follow suit.

33. The CHAIRMAN said that he agreed with Mr. Sorensen. Despite repeated written requests, two countries, Togo and Uganda, had still not submitted their reports, which had been due for more than four years. The Committee might decide to consider the human rights situations in those countries at its next session, with or without their reports, after inviting representatives of those countries to attend.

34. Mrs. KLEIN-BIDMON (Representative of the Secretary-General) noted that the Committee on the Elimination of Racial Discrimination had already used that method for the periodic reports of countries that had submitted at least one report, but not for a country that had never submitted a report.

35. The CHAIRMAN said that there seemed to be all the more reason to proceed in that way if a country had never submitted a report, even though it had signed the Convention.

36. Mr. GIL LAVEDRA said that the problem required more thorough discussion. He did not see which provision of the Convention against Torture allowed the Committee to consider the situation of a country without a report. Clearly, article 19 required countries to submit a report and non-submission was in violation of the Convention, but no rule allowed the Committee to consider the situation: in so doing, it would be going beyond its terms of reference.

The meeting rose at 1.05 p.m.